

AMENDED IN SENATE APRIL 5, 2006

SENATE BILL

No. 1503

Introduced by Senator Poochigian

February 23, 2006

An act to amend Section 666.5 of the Penal Code, and to amend Section 10851 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1503, as amended, Poochigian. Vehicle theft: probation.

(1) Existing law makes it a felony punishable by imprisonment in the state prison for 2, 3, or 4 years if a defendant previously convicted of felony vehicle, motor vehicle, trailer, special construction equipment, or vessel theft or felony grand theft involving an automobile is subsequently convicted of one of those offenses regardless of whether he or she actually served a prior prison term for those offenses.

This bill would apply these provisions to a person who has previously been convicted of one or more misdemeanor violations. Because this would increase the level of local law enforcement services, this bill would impose a state-mandated local program.

This bill would allow a person who is subject to the above-described punishment, *when the person has previously been convicted of 2 or more of the above described offenses*, to be granted probation only in the unusual case where the interests of justice would best be served; and when probation is granted under this provision, the court would be required to specify on the record and enter into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(2) Existing law makes it a felony for a person to unlawfully take or steal, as described, a distinctively marked vehicle of a law enforcement agency or fire department, taken while the vehicle is on an emergency call and this fact is known to the person driving or taking, or to take or steal a vehicle that is modified for the use of a disabled veteran or other disabled person and that displays a distinguishing license plate or placard and this fact is known or should reasonably have been known to the person unlawfully driving or taking the vehicle or an accomplice or accessory to these acts.

This bill would delete the requirement that the above described facts, as to the status of the ambulance or vehicle, be known to the person driving or taking the ambulance or vehicle. This bill would thereby expand the scope of an existing crime, thus, creating a state-mandated local program.

This bill would also provide for ~~unspecified~~ *specified* enhanced ~~sanctions~~ *prison sentences* for those persons who violate the above-described offense or offenses under specified circumstances.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 666.5 of the Penal Code is amended to
2 read:
3 666.5. (a) A person who, having been previously convicted
4 of a ~~felony~~ violation of Section 10851 of the Vehicle Code, or
5 ~~felony~~ grand theft involving an automobile in violation of
6 subdivision (d) of Section 487 or former subdivision (3) of
7 Section 487, as that section read prior to being amended by
8 Section 4 of Chapter 1125 of the Statutes of 1993, or ~~felony~~
9 grand theft involving a motor vehicle, as defined in Section 415
10 of the Vehicle Code, a trailer, as defined in Section 630 of the
11 Vehicle Code, special construction equipment, as defined in
12 Section 565 of the Vehicle Code, or a vessel, as defined in

1 Section 21 of the Harbors and Navigation Code in violation of
2 former Section 487h, or a felony violation of Section 496d
3 regardless of whether or not the person actually served a prior
4 prison term for those offenses, is subsequently convicted of one
5 or more of these offenses shall be punished by imprisonment in
6 the state prison for two, three, or four years, or a fine of ten
7 thousand dollars (\$10,000), or both the fine and the
8 imprisonment.

9 (b) For the purposes of this section, the terms “special
10 construction equipment” and “vessel” are limited to motorized
11 vehicles and vessels.

12 (c) The existence of a fact that would bring a person under
13 subdivision (a) shall be alleged in the information or indictment
14 and either admitted by the defendant in open court, or found to be
15 true by the jury trying the issue of guilt or by the court where
16 guilt is established by plea of guilty or nolo contendere or by trial
17 by the court sitting without a jury.

18 (d) A person who is subject to punishment under this section,
19 *having previously been convicted of two or more of the offenses*
20 *enumerated in subdivision (a)*, may be granted probation only in
21 the unusual case where the interests of justice would best be
22 served. When probation is granted under this subdivision, the
23 court shall specify on the record and shall enter into the minutes
24 the circumstances indicating that the interests of justice would
25 best be served by that disposition.

26 SEC. 2. Section 10851 of the Vehicle Code is amended to
27 read:

28 10851. (a) A person who drives or takes a vehicle not his or
29 her own, without the consent of the owner thereof, and with
30 intent either to permanently or temporarily deprive the owner
31 thereof of his or her title to or possession of the vehicle, whether
32 with or without intent to steal the vehicle, or a person who is a
33 party or an accessory to or an accomplice in the driving or
34 unauthorized taking or stealing, is guilty of a public offense and,
35 upon conviction thereof, shall be punished by imprisonment in a
36 county jail for not more than one year or in the state prison or by
37 a fine of not more than five thousand dollars (\$5,000), or by both
38 the fine and imprisonment.

39 (b) If the vehicle described in subdivision (a) is (1) an
40 ambulance, as defined in subdivision (a) of Section 165, (2) a

1 distinctively marked vehicle of a law enforcement agency or fire
2 department, or (3) a vehicle that is modified for the use of a
3 disabled veteran or other disabled person and that displays a
4 distinguishing license plate or placard issued pursuant to Section
5 22511.5 or 22511.9, the offense is a felony punishable by
6 imprisonment in the state prison for two, three, or four years or
7 by a fine of not more than ten thousand dollars (\$10,000), or by
8 both the fine and imprisonment.

9 (c) In a prosecution for a violation of subdivision (a) or (b),
10 the consent of the owner of a vehicle to its taking or driving shall
11 not in any case be presumed or implied because of the owner's
12 consent on a previous occasion to the taking or driving of the
13 vehicle by the same or a different person.

14 (d) The existence of a fact that makes subdivision (b)
15 applicable shall be alleged in the accusatory pleading, and either
16 admitted by the defendant in open court, or found to be true by
17 the jury trying the issue of guilt or by the court where guilt is
18 established by plea of guilty or nolo contendere or by trial by the
19 court sitting without a jury.

20 (e) A person who has been convicted of one or more previous
21 violations of this section, or grand theft of a vehicle in violation
22 of subdivision (d) of Section 487 of the Penal Code, former
23 subdivision (3) of Section 487 of the Penal Code, as that section
24 read prior to being amended by Section 4 of Chapter 1125 of the
25 Statutes of 1993, or Section 487h of the Penal Code, is
26 punishable as set forth in Section 666.5 of the Penal Code. The
27 existence of a fact that would bring a person under subdivision
28 (f), (g), (h), (i), or (j), or Section 666.5 of the Penal Code, or any
29 combination, shall be alleged in the information or indictment
30 and either admitted by the defendant in open court, or found to be
31 true by the jury trying the issue of guilt or by the court where
32 guilt is established by plea of guilty or nolo contendere, or by
33 trial by the court sitting without a jury.

34 (f) A person who violates subdivision (a) as a principal or
35 accessory to the taking of a vehicle in exchange for consideration
36 or for the purpose of sale or transport of the vehicle or its
37 component, in addition to other penalties prescribed by law, is
38 subject to ~~_____~~ *an additional one year imprisonment in the state*
39 *prison.*

1 (g) A person who violates subdivision (a) as a principal or
2 accessory to the taking of a vehicle that, prior to its recovery, is
3 used in the commission of an offense that is a felony, in addition
4 to other penalties prescribed by law, is subject to ~~_____~~ *an*
5 *additional one year imprisonment in the state prison.*

6 (h) A person who violates subdivision (a) as a principal or
7 accessory to the taking of a vehicle and with intent to use the
8 vehicle in the commission of a felony, in addition to other
9 penalties prescribed by law, is subject to ~~_____~~ *an additional one*
10 *year imprisonment in the state prison.*

11 (i) A person who feloniously violates subdivision (a) as a
12 principal or accessory to the taking of a vehicle that, prior to its
13 recovery, is the subject of a police pursuit, in addition to other
14 penalties prescribed by law, is subject to ~~_____~~ *an additional one*
15 *year imprisonment in the state prison.*

16 (j) A person who violates subdivision (a) as a principal or
17 accessory to the taking of a vehicle that, prior to its recovery, is
18 involved in a collision, in addition to other penalties prescribed
19 by law, is subject to ~~_____~~ *an additional one year imprisonment*
20 *in the state prison and an additional and consecutive one year*
21 *imprisonment in the state prison for each person, other than an*
22 *accessory, who suffers personal injury as a proximate cause of*
23 *that collision.*

24 SEC. 3. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the
29 penalty for a crime or infraction, within the meaning of Section
30 17556 of the Government Code, or changes the definition of a
31 crime within the meaning of Section 6 of Article XIII B of the
32 California Constitution.